

Introduced by Senator Schiff

February 27, 1997

An act to amend Sections 22955, 24411, and 24415 of, to add Sections 22955.5 and 24411.5 to, and to repeal Sections 22954 and 24414 of, the Education Code, relating to retirement, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1026, as introduced, Schiff. Teachers' retirement benefits.

The State Teachers' Retirement Law requires the annual transfer to the Supplemental Benefit Maintenance Account from the General Fund of 2.5% of the total of prior year salaries upon which member contributions to the retirement system are based for funding supplemental benefits.

This bill would delete that provision and instead would increase the continuous appropriation from the General Fund to the Teachers' Retirement Fund of an additional 4.3% of the total salaries of the immediately preceding calendar year to 5.8%. The Controller, at the request of the State Teachers' Retirement Board, would be required to reduce that transfer whenever the board makes specified determinations respecting the level of supplemental benefits and unfunded obligation periods.

Existing law provides that annual cost-of-living adjustments for retired members, disabled members, and beneficiaries in excess of 2% may be included as a General Fund appropriation in the annual Budget Act and placed in the Retirees' Purchasing Power Protection Account.

This bill would instead provide that those adjustments may be provided by the board from the annual additional transfer from the General Fund. The bill would authorize the board to provide supplemental benefits whenever it determines that the Teachers' Retirement Fund will have no unfunded obligation after 30 years.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 22954 of the Education Code is
2 repealed.

3 ~~22954. (a) In addition to any other contributions~~
4 ~~required by this part, on July 1, 1990, and on July 1 of each~~
5 ~~subsequent year, the Controller, subject to Section 24414,~~
6 ~~shall transfer, based on estimated payroll data provided~~
7 ~~by the board, the following percentages of the total of the~~
8 ~~prior year salaries upon which members' contributions~~
9 ~~are based to the Supplemental Benefit Maintenance~~
10 ~~Account in the Teachers' Retirement Fund, for the~~
11 ~~purpose of funding the supplemental payments~~
12 ~~authorized under Section 24415:~~

13		
14	(1) For the fiscal year ending June 30, 1991	0.50%
15	(2) For the fiscal year ending June 30, 1992	1.00%
16	(3) For the fiscal year ending June 30, 1993	1.50%
17	(4) For the fiscal year ending June 30, 1994	2.00%
18	(5) For the fiscal year ending June 30, 1995, and	
19	each fiscal year	2.50%
20		

21 ~~These transfers shall be based upon estimated payroll~~
22 ~~data provided to the Director of Finance by the board and~~
23 ~~shall be adjusted in January of that same fiscal year to~~
24 ~~reflect actual payroll data.~~

25 ~~(b) The board may deduct from the annual state~~
26 ~~contributions made pursuant to this section an amount~~
27 ~~necessary for the administrative expenses to implement~~
28 ~~Section 24415, subject to the annual Budget Act.~~



1 ~~(c) Notwithstanding any other provision of law, it is~~
2 ~~the intent of the Legislature, in establishing the~~
3 ~~Supplemental Benefit Maintenance Program embodied~~
4 ~~in this section and Sections 22400, 24414, and 24415, to~~
5 ~~manifest a contractually enforceable promise to repay the~~
6 ~~Teachers' Retirement Fund in full, with interest, as~~
7 ~~provided in subdivision (b) of Section 24414, for all~~
8 ~~transfers or advances made from the Teachers'~~
9 ~~Retirement Fund pursuant to subdivision (a) of Section~~
10 ~~24414 and for any funds appropriated by Item No.~~
11 ~~1920-111-835 of the Budget Act of 1989 from the Teachers'~~
12 ~~Retirement Fund to provide purchasing power~~
13 ~~protection payments.~~

14 ~~(d) Except as provided in subdivision (c), the~~
15 ~~Legislature reserves the right to reduce or terminate the~~
16 ~~state's contributions to the Supplemental Benefit~~
17 ~~Maintenance Account in the Teachers' Retirement Fund~~
18 ~~provided by this section and to reduce or terminate the~~
19 ~~distributions required by Section 24415. It is intended that~~
20 ~~any legislative reduction or termination of the state's~~
21 ~~contributions to the Supplemental Benefit Maintenance~~
22 ~~Account in the Teachers' Retirement Fund provided by~~
23 ~~this section or any reduction or termination of~~
24 ~~distributions required by Section 24415, shall be~~
25 ~~effectuated by a separate statute rather than by the~~
26 ~~annual Budget Act.~~

27 SEC. 2. Section 22955 of the Education Code is
28 amended to read:

29 22955. (a) Notwithstanding Section 13340 of the
30 Government Code, commencing October 1, 1991, a
31 continuous appropriation is hereby made from the
32 General Fund to the Controller, pursuant to this section,
33 for transfer to the Teachers' Retirement Fund. The total
34 amount of the appropriation for each year shall be equal
35 to ~~4.3~~ 5.8 percent of the total of the salaries of the
36 immediately preceding calendar year upon which
37 members' contributions are based, to be calculated
38 annually on October 1, and shall be divided into four
39 equal quarterly payments. ~~The percentage shall be~~
40 ~~adjusted to reflect the contribution required to fund the~~



1 ~~normal cost deficit when the unfunded obligation has~~
2 ~~been deemed to be eliminated by the board based upon~~
3 ~~a recommendation from its actuary. If a rate increase or~~
4 ~~decrease is required, the adjustment may be for no more~~
5 ~~than 0.25 percent per year and in no case may the transfer~~
6 ~~exceed 4.3 percent of the total of the salaries of the~~
7 ~~immediately preceding calendar year upon which~~
8 ~~members' contributions are based.~~

9 (b) The funds transferred pursuant to subdivision (a)
10 shall first be applied to meeting the normal cost deficit,
11 if any, for that fiscal year.

12 (c) The transfers made pursuant to this section are in
13 lieu of the state contributions formerly made pursuant to
14 Sections ~~23401~~ 22954, 23401, and 23402.

15 (d) For the purposes of this section, the term “normal
16 cost deficit” means the difference between the normal
17 cost rate as determined in the actuarial valuation
18 required by Section 22226 and the total of the member
19 contribution rate required under Section 22804 and the
20 employer contribution rate required under Section
21 23400, and shall exclude (1) the portion for unused sick
22 leave service granted pursuant to Section 22719, and (2)
23 the cost of benefit increases which occur after July 1, 1990.
24 The contribution rates prescribed in Section 22804 and
25 Section 23400 on July 1, 1990, shall be utilized to make the
26 calculations. The normal cost deficit shall then be
27 multiplied by the total of the salaries upon which member
28 contributions are based to determine the dollar amount
29 of the normal cost deficit for the year.

30 (e) Pursuant to Section 22001 and the case law, the
31 members are entitled to a financially sound retirement
32 system. The Legislature recognizes that the system shall,
33 pursuant to this act, receive less funds in the short term
34 than it would have received under former Sections 23401
35 and 23402 (Chapter 282 of the Statutes of 1979). However,
36 it is the intent of the Legislature that this section shall
37 provide the retirement fund stable and full funding over
38 the long term.

39 (f) This section continues in effect but in a somewhat
40 different form, fully performs, and does not in any way



1 unreasonably impair, the contractual obligations
2 determined by the court in California Teachers'
3 Association v. Cory, 155 Cal. App. 3d 494.

4 (g) This section shall not be construed to be applicable
5 to any unfunded liability resulting from any benefit
6 increase or change in contribution rate that occurs after
7 July 1, 1990.

8 (h) The amendments to this section during the
9 1991–92 Regular Session shall be construed and
10 implemented to be in conformity with the judicial intent
11 expressed by the court in California Teachers' Association
12 v. Cory, 155 Cal. App. 3d 494.

13 SEC. 3. Section 22955.5 is added to the Education
14 Code, to read:

15 22955.5. (a) Notwithstanding any other provision of
16 this part, the Controller, at the request of the board, shall
17 reduce the percentage transfer specified in subdivision
18 (a) of Section 22955 to the amount determined by the
19 board as the amount that would provide sufficient funds
20 to pay the benefit prescribed by paragraph (2) of
21 subdivision (c) of Section 24411.5 and would fund the
22 unfunded obligation in 20 years.

23 (b) Whenever an actuarial valuation by the board
24 determines that the benefit prescribed by paragraph (2)
25 of subdivision (c) of Section 24411.5 can be funded and
26 the unfunded obligation will be paid fully within 10 years,
27 the Controller, at the request of the board, shall reduce
28 the percentage transfer specified in subdivision (a) of
29 Section 22955.

30 (c) Notwithstanding subdivision (b), the board shall
31 not certify a percentage amount for purposes of
32 subdivision (a) of Section 22955 that is less than 2.5
33 percent of covered payroll.

34 SEC. 4. Section 24411 of the Education Code is
35 amended to read:

36 24411. (a) ~~(1) Annual cost-of-living adjustments for~~
37 ~~retired members, disabled members, and beneficiaries in~~
38 ~~excess of the 2-percent adjustment authorized by Section~~
39 ~~22140 may be included as a General Fund appropriation~~
40 ~~in the annual Budget Act. In the annual budget submitted~~



1 to the Legislature, the Governor shall include a budget
2 item equal to 5 percent of the average annualized
3 statewide increase in payroll for certificated personnel
4 over the three previous school years among school
5 districts, county offices of education, and community
6 college districts.

7 (2) The amount submitted in the annual Budget Act
8 pursuant to this section shall be considered as part of the
9 overall budget allocations to the public schools and
10 community colleges provided by the board pursuant to
11 Section 24411.5.

12 (b) The annual appropriation shall be made to the
13 system on July 1, and allocation shall be placed in a
14 segregated account called the Retirees' Purchasing
15 Power Protection Account. The proceeds of that account
16 are continuously appropriated and shall be distributed
17 annually in quarterly payments commencing on
18 September 1 to retired members, disabled members, and
19 beneficiaries as follows:

20 (1) The proceeds shall be allocated among those
21 retired members, disabled members, and beneficiaries
22 whose allowances, after applying the 2-percent
23 adjustment authorized by Section 22140, have the lowest
24 purchasing power percentage, based on the amount that
25 would be paid had the original allowance been increased
26 by the increases in the index then being used by the
27 Department of Finance to measure changes in the cost of
28 living, increasing those allowances to a common
29 minimum purchasing power level. In any year in which
30 the purchasing power of the allowances of all retired
31 members, disabled members, and beneficiaries equals
32 not less than 75 percent and additional funds remain from
33 the allocation authorized by this section, those funds shall
34 be allocated by the board to general accounts to reduce
35 the unfunded actuarial liability of the fund.

36 (2) The board may deduct from the annual
37 appropriation an amount necessary for administrative
38 expenses to implement this section.

39 (c) The board shall inform each recipient of benefits
40 under subdivision (b) that the increases are not



1 cumulative, are not part of the base allowance, and shall
2 be available only as appropriated annually in the Budget
3 Act.

4 (d) The adjustments authorized by this section shall
5 not be included in the base allowance for purposes of
6 calculating the 2-percent adjustment authorized by
7 Section 22140.

8 (e) It is the ultimate intent and purpose of the
9 Legislature in amending this section by Chapters 323 and
10 780 of the Statutes of 1983, to achieve a common
11 minimum purchasing power level equal to 75 percent of
12 the purchasing power of the original allowance. It is the
13 present intent of the Legislature that until adequate
14 funds are available to fulfill the ultimate intent, those
15 persons whose allowances have been most impacted by
16 inflation shall be accorded first priority in receiving,
17 pursuant to this section, supplemental cost-of-living
18 adjustments from the Retirees' Purchasing Power
19 Protection Account.

20 (f) This section shall not be operative in any fiscal year
21 during which, as determined by the board, distributions
22 provided for by Section 24415 are being made.

23 SEC. 5. Section 24411.5 is added to the Education
24 Code, to read:

25 24411.5. (a) The board may provide supplemental
26 benefits to members pursuant to subdivision (c)
27 whenever the board determines that the Teachers'
28 Retirement Fund will have no unfunded obligation after
29 30 years, and that the benefit payment will not cause the
30 retirement fund to have an unfunded obligation at the
31 end of 30 years.

32 (b) No supplemental benefit provided by subdivision
33 (c) shall be vested.

34 (c) The following benefits may be provided by the
35 board in the following order of granting the benefit:

36 (1) Purchasing power protection of 68.2 percent.

37 (2) Purchasing power protection of 75 percent.

38 (d) The board shall not grant a benefit identified in
39 subdivision (c) with a higher number in the sequence if
40 a benefit with a lower number has not be provided.



1 SEC. 6. Section 24414 of the Education Code is
2 repealed.

3 ~~24414. (a) Beginning in the 1989-90 fiscal year, and~~
4 ~~until the first fiscal year in which the Supplemental~~
5 ~~Benefit Maintenance Account established by Section~~
6 ~~22400 derives sufficient resources from the General Fund~~
7 ~~pursuant to Section 22954 to provide purchasing power of~~
8 ~~68.2 percent as authorized by Section 24415, the board~~
9 ~~shall transfer from the retirement fund to the~~
10 ~~Supplemental Benefit Maintenance Account those funds~~
11 ~~that are necessary to provide purchasing power of 68.2~~
12 ~~percent as authorized by Section 24415. This subdivision~~
13 ~~shall become inoperative in the first fiscal year following~~
14 ~~the joint determination by the board and the Director of~~
15 ~~Finance that the funds scheduled for transfer from the~~
16 ~~General Fund pursuant to Section 22954 to the~~
17 ~~Supplemental Benefit Maintenance Account are~~
18 ~~adequate to meet the purposes of Section 24415.~~

19 ~~(b) The funds advanced pursuant to subdivision (a)~~
20 ~~and any funds appropriated by Item 1920-111-835 of the~~
21 ~~Budget Act of 1989 from the retirement fund to provide~~
22 ~~purchasing power protection payments shall be repaid~~
23 ~~from those funds transferred pursuant to Section 22954~~
24 ~~that are in excess of the resources required to meet the~~
25 ~~purposes of Section 24415. Repayment shall commence in~~
26 ~~any year in which those excess funds exist and shall~~
27 ~~continue until the time all funds advanced under this~~
28 ~~section and any funds appropriated by Item 1920-111-835~~
29 ~~of the Budget Act of 1989 from the retirement fund to~~
30 ~~provide purchasing power protection payments are~~
31 ~~repaid. Repayment shall include regular interest from the~~
32 ~~time funds are advanced or appropriated until the time~~
33 ~~of repayment. After full repayment is made, the Director~~
34 ~~of Finance shall, notwithstanding Section 22954, adjust~~
35 ~~the percentage of the General Fund transfer in the~~
36 ~~amount which causes the balance in the account to equal~~
37 ~~a three-year reserve at the end of the subsequent fiscal~~
38 ~~year. The Director of Finance may base the adjusted rate~~
39 ~~on data provided by the board for projected payments in~~
40 ~~subject years, projected payroll, projected interest~~



1 accrual to the account, and any other factors deemed
2 relevant by the board.

3 (c) Notwithstanding Section 24415 or any other
4 provision of law, if the state's contributions to the
5 retirement fund provided by Section 22954 are, for any
6 reason whatsoever, reduced or terminated before the
7 retirement fund is fully repaid, as provided in subdivision
8 (b), for all advances or transfers made pursuant to
9 subdivision (a) and for any appropriations made by Item
10 1920-111-835 of the Budget Act of 1989 from the
11 retirement fund to provide purchasing power protection
12 payments, all duties of the board to make the advances or
13 transfers required by subdivision (a) and to make the
14 distributions required by Section 24415 shall immediately
15 cease and shall have no further force or effect.

16 (d) It is the intent of the Legislature, in enacting the
17 Supplemental Benefit Maintenance Program embodied
18 in this section and Section 22400, subdivision (b) of
19 Section 22954, Section 24415, subdivision (b) of Section
20 44929, and subdivision (b) of Section 87488, not to
21 manifest any promise, except as provided in subdivision
22 (e) of Section 22954, that, when accepted, would create
23 a contract, express or implied. Notwithstanding any other
24 provision of this part, nothing in the sections establishing
25 the Supplemental Benefit Maintenance Program shall be
26 construed as a basis for any implied contractual
27 obligation, or as an element of exchange of consideration
28 by a private party for consideration offered by the state,
29 or as an intent to grant private rights of contract, or as
30 conferring any vested right whatsoever on any present or
31 future member, present or future annuitant, present or
32 future surviving spouse of a present or future member or
33 a present or future annuitant, dependent child or
34 dependent parent of a present or future member or a
35 present or future annuitant, or present or future
36 beneficiary of the plan.

37 (e) The board shall report annually to the Director of
38 Finance and the appropriate fiscal and policy committees
39 of the Legislature upon the benefits paid pursuant to



1 ~~Section 24415 and all actions taken pursuant to Section~~
2 ~~22954 and this section.~~

3 SEC. 7. Section 24415 of the Education Code is
4 amended to read:

5 24415. (a) The proceeds of the Supplemental Benefit
6 Maintenance Account shall, ~~except as otherwise provided~~
7 ~~by Section 24414~~, be distributed annually in quarterly
8 supplemental payments commencing on September 1,
9 1990, to retired members, disabled members, and
10 beneficiaries. The amount available for distribution in
11 any fiscal year shall not exceed the amount necessary to
12 restore purchasing power up to 68.2 percent of the
13 purchasing power of the initial monthly allowance after
14 the application of all allowance increases authorized by
15 this part, including those specified in Section 24412.

16 (b) The net revenues to be distributed shall be
17 allocated among those retired members, disabled
18 members, and beneficiaries whose allowances, after
19 sequentially applying the annual improvement factor as
20 defined in Sections 22140 and 22141, and the annual
21 supplemental payment as defined in Section 24412, have
22 the lowest purchasing power percentage. The purchasing
23 power calculation for each individual shall be based on
24 the change in the All Urban California Consumer Price
25 Index between June of the calendar year of retirement
26 and June of the fiscal year preceding the fiscal year of
27 distribution. ~~In any year in which the purchasing power~~
28 ~~of the allowances of all retired members, disabled~~
29 ~~members, and beneficiaries equals not less than 68.2~~
30 ~~percent and additional funds remain from the allocation~~
31 ~~authorized by this section, those funds shall remain in the~~
32 ~~Supplemental Benefit Maintenance Account for~~
33 ~~allocation in future years.~~

34 (c) The allowance increase shall not be applicable to
35 annuities payable from the accumulated annuity deposit
36 contributions or the accumulated tax-sheltered annuity
37 contributions.

38 (d) The benefits provided by subdivision (b) are not
39 cumulative, not part of the base allowance, and will be
40 payable only to the extent that funds are available from



1 the Supplemental Benefit Maintenance Account. The
2 board shall inform each recipient of the contents of this
3 subdivision.

4 (e) The adjustments authorized by this section are not
5 vested and shall not be included in the base allowance for
6 purposes of calculating the annual improvement defined
7 by Sections 22140 and 22141.

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